

REMARKS/ARGUMENTS

Applicant responds herein to the Final Office Action dated June 19, 2008.

Applicant's attorneys appreciate the Examiner's continued thorough search and examination of the present patent application.

Claims 1-18, 21, 22, 27-31 are pending in this application. Claims 6-18 and 27-31 have been withdrawn from consideration. Claims 19-20 and 23-26 have been canceled. Claims 1-5, 21, and 22 have been rejected.

Claims 1-3, 5, 21, and 22 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,993,476 to Groiso ("Groiso"). Reconsideration and withdrawal of this rejection are respectfully requested.

In the structure of the clip of the invention of claims 1 and 21, a force parallel to the legs of the clip is applied to the elongated sections of the clip in an area of the non-linear deformable region in order for the connecting bridge to be "adapted to lie substantially flat on the bone tissue when the clip is installed." Independent claims 1 and 21 have been amended to make direction of that force explicit. Thus, independent claims 1 and 21 now recite that "the elongated sections of the clip are structured to receive a force in the first direction in an area of the non-linear deformable region that causes the proximal insertion tips to pivot, the engagement legs being straight over their entire lengths to the point where they connect to the connecting bridge so that the connecting bridge is adapted to lie substantially flat on the bone tissue when the clip is installed." No new matter has been added.

Support for this is found in paragraphs 0024 and 0025 of the present specification. In particular, paragraph 0024 states the following:

To close gap 330 and to ensure proper setting of bone tissue fragments 305a, 305b, a force, such as an upward force, is applied to elongated sections 115a, 115b of clip 100 in an area of non-linear deformable region 130, as shown in FIG. 3d.

and paragraph 0025 states the following:

Specifically, after inserting clip 100 into bone tissue fragments 305a, 305b, a downward force is applied to elongated sections 115a, 115b in an area of non-linear deformable dome 130, before elongated sections 115a, 115b are separated.

In other words, in accordance with paragraphs 0024 and 0025, an upward or downward force is applied in the area of non-linear deformation “so that the connecting bridge is adapted to lie substantially flat on the bone tissue when the clip is installed” as recited in claims 1 and 21.

Contrary to the vertical force described above, Groiso only describes a horizontal force Fa. In col. 5, lines 19-22 Groiso states the following:

When the force Fa is applied to the clip according to the present invention to expand the gap 8 between the bridge sections 10, the legs 4 move together thereby to cause the gap between the bone fragments to decrease.

Groiso merely describes changing the horizontal spacing between the sections 10 (Fig. 16) to cause the legs 4 of the clip to be drawn together (col. 5, lines 2-17). Groiso does not suggest a partial linearization of a deformable region (by applying a force in the vertical direction) as claimed to cause the legs to be drawn together.

Thus, Groiso does not teach, describe, or suggest that “the elongated sections are structured to receive a force in the first direction in an area of the non-linear deformable region” as recited in claims 1 and 21. The force applied in the first direction pivots the insertion tips of the legs, which draws the legs together to allow the bone fragments to join together.

Notwithstanding the Examiner’s rejection, the bridge sections of the Groiso clips are devoid of the claimed non-linear deformable regions. There is no teaching or suggestion in Groiso of the claimed structure, i.e., the non-linear deformable regions, that has a structure that receives a force in the first direction in an area of the non-linear deformable region ... so that the connecting bridge is adapted to lie substantially flat on the bone tissue when the clip is installed.”

While in accordance with claims 1 and 21 the force is applied to partly linearize the non-linear deformable region to make it lie flat on the bone (see paragraph 24 of the specification), the absence of the non-linear deformable regions in the clips of Groiso prevents the application of the forces in the first direction in that region to cause the proximal insertion tips to pivot the engagement legs and to cause at least partial linearization of the non-linear deformable region.

In rejecting the claims of the present application the Examiner has provided an example of an embodiment described in col. 6, lines 65-62 of Groiso as being “useful to fix bones of different thicknesses.” An example of such use is illustrated in Figures 4b and 4a of the present application. Contrary to the recitations of claims 1 and 21, the Examiner’s exemplary clip of Groiso has a form that enables it to “lie substantially flat on the bone tissue when the clip is

installed” without having to apply a force in the horizontal or vertical directions “to the elongated sections of the clip in an area of the non-linear deformable region.” Furthermore, applying a force at point 41 between sections 50 and 46 of the clip as suggested by the Examiner, may cause damage to the bones, if the force is applied downward or raising the bridge of the clip from lying substantially flat if the force is applied upward.


Thus, Groiso does not anticipate claims 1 and 21.

Claims 2-3, 5, and 22 depend directly or indirectly from independent claims 1 and 21 and are, therefore, allowable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the respective independent claims.

In view of the above, it is submitted that all claims in this application are now in condition for allowance, prompt notification of which is requested.

THIS CORRESPONDENCE IS BEING
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Respectfully submitted,



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